

Message Text

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ACTION L-02

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R 160403Z MAY 75
FM AMEMBASSY MANILA
TO SECSTATE WASHDC 3431

LIMITED OFFICIAL USE SECTION 1 OF 2 MANILA 6650

PLEASE PASS AMERICAN BATTLE MONUMENTS COMMISSION

E.O. 11652: N/A
TAGS: PFOR, RP
SUBJECT: PROPOSED US/RP AGREEMENT ON AMERICAN BATTLE
MONUMENTS CEMETERY IN PHILIPPINES

1. AMERICAN BATTLE MONUMENTS CEMETERY IN MANILA IS PRESENTLY AUTHORIZED UNDER ARTICLE X, MBA OF 1947, AND THREE EXCHANGE OF NOTES DURING 1948-51 TIME PERIOD (SEE ART. VIII OF BELOW AGREEMENT). APPARENTLY, IN 1971 DEPT SUGGESTED TO BATTLE MONUMENTS COMMISSION THUZ IN CONNECTION WITH RENEGOTIATION OF MBA, IT APPROPRIATE TO NEGOTIATE SEPARATE AGREEMENT FOR CEMETERY. COMMISSION AGREED, SUPPLIED A DRAFT AGREEMENT AND HAS SINCE MADE PERIODIC INQUIRIES AS TO STATUS. EMB IN 1971 INFORMALLY SUGGESTED TO GOP A SEPARATE AGREEMENT. NO OBJECTION WAS MADE; HOWEVER, NO FURTHER ACTION WAS TAKEN BY EITHER GOVERNMENT.

2. EMB NOW BELIEVES IT MAY BE TIMELY TO NEGOTIATE SEPARATE AGREEMENT. THE FOLLOWING PROPOSED AGREEMENT DRAFTED BY EMB UTILIZING US/NETHERLANDS AGREEMENT (TIAS 6978), 1971 BATTLE MONUMENTS DRAFT AND SUBSTANCE OF 1948-51 EXCHANGES OF NOTES AS BASIS.

3. FOLLOWING IS EMB DRAFT AGREEMENT: BEING QUOTE (BEGIN TITLE) AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES CONCERNING AN AMERICAN MILITARY CEMETERY AND MEMORIAL AND OTHER HISTORICAL SITES (END TITLE) PARA THE
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GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF

THE REPUBLIC OF THE PHILIPPINES, DESIRING TO SIMPLIFY AND

GIVE PERMANENT CHARACTER TO THE ARRANGEMENTS WHICH HAVE BEEN MUTUALLY AGREED UPON CONCERNING THE ESTABLISHMENT AND MAINTENANCE NEAR MANILA OF A PERMANENT CEMETERY AND MEMORIAL WHERE ARE INTERRED THE REMAINS OF CERTAIN MILITARY AND CIVILIAN PERSONNEL OF THE UNITED STATES OF AMERICA AND OF THE REPUBLIC OF THE PHILIPPINES WHO DIED WHILE ENGAGED IN ACTIVITIES CONTRIBUTING TO THE PROSECUTION OF WORLD WAR II, AS WELL AS TO PROVIDE FOR FUTURE MEMORIALS OR MONUMENTS TO THAT WAR AT HISTORICAL SITES IN THE REPUBLIC OF THE PHILIPPINES, HAVE AGREED AS FOLLOWS: PARA ARTICLE I PARA 1. THE PRESENT AGREEMENT APPLIES TO THE MANILA AMERICAN CEMETERY AND MEMORIAL ESTABLISHED AND ERECTED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR INTERMENT OF THE REMAINS OF MILITARY AND CIVILIAN PERSONNEL OF THE UNITED STATES OF AMERICA AND OF THE REPUBLIC OF THE PHILIPPINES IN THE SERVICE OF THE UNITED STATES OF AMERICA, WHO DIED WHILE ENGAGED IN ACTIVITIES CONTRIBUTING TO THE PROSECUTION OF WORLD WAR II, AND TO HONOR SUCH PERSONNEL WHO DIED IN THAT WAR.

PARA 2. THE PRESENT AGREEMENT ALSO APPLIES, AS SPECIFIED IN ARTICLE VI, TO ANY OTHER MONUMENTS OF MEMORIALS WHICH MAY BE ESTABLISHED AND ERECTED IN THE REPUBLIC OF THE PHILIPPINES BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA WITH THE CONCURRENCE OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES IN HONOR OF SUCH PERSONNEL WHO ENGAGED IN THE PROSECUTION OF WORLD WAR II OR DIED IN THAT WAR. PARA ARTICLE II PARA 1. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES GRANTS TO THE GOVERNMENT OF THE UNITED STATES THE FULL AND FREE USE IN PERPETUITY

WITHOUT TAXATION OR OTHER COMPENSATION, OF THE LAND REQUIRED FOR THE MANILA AMERICAN CEMETERY AND MEMORIAL, DESCRIBED IN ANNEX 1 TO THIS AGREEMENT. PARA 2. IT IS UNDERSTOOD AND AGREED THAT TITLE TO THE LAND DESCRIBED IN ANNEX 1 IS VESTED IN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES, WHICH PLACES IT AT THE DISPOSAL OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA IN PERPETUITY TO BE USED EXCLUSIVELY FOR A PERMANENT MILITARY CEMETERY AND WAR MEMORIAL. PARA 3. THE GOVERNMENT OF THE UNITED STATES OF AMERICA AGREES THAT IT WILL NOT LIMITED OFFICIAL USE

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ALLOW ANY THIRD PARTY THE USE OF THE PROPERTY, OR ANY PORTION THEREOF, INVOLVED IN THIS AGREEMENT AND THAT SHOULD THE PROPERTY, OR ANY PORTION THEREOF, CEASE TO BE USED FOR CEMETERY PURPOSES IT WILL REVERT TO THE USE OR BE AT THE DISPOSAL OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES. PARA 4. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES GUARANTEES THAT THE TRACT OF LAND DESCRIBED IN ANNEX 1 SHALL BE FREE OF ANY PUBLIC OR

PRIVATE EASEMENTS OR OTHER ENCUMBRANCES WHICH MAY HINDER THE CONTEMPLATED USE. PARA 5. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES WILL PROHIBIT THE ERECTION OF UNSIGHTLY OR OBJECTIONABLE STRUCTURES OR THE ESTABLISHMENT OF ACTIVITIES WHICH WOULD TEND TO DETRACT FROM THE DIGNITY OF THE MANILA AMERICAN CEMETERY AND MEMORIAL AND SURROUNDING AREA WITHIN A DISTANCE OF 500 FEET FROM THE BOUNDARIES OF THE TRACT DESCRIBED IN ANNEX 1. PARA 6. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES WILL MAINTAIN THE EXISTING ACCESS ROADS TO THE MANILA AMERICAN CEMETERY AND MEMORIAL AT A HIGH STANDARD AND WILL INSURE TO THE GOVERNMENT OF THE UNITED STATES THE RIGHT TO FREELY USE SUCH ACCESS ROADS TO THE CEMETERY ENTRANCE AND ADEQUATE RIGHTS OF WAY FOR PRESENT OR FUTURE UTILITIES LINES NECESSARY FOR PROPER OPERATION OF THE CEMETERY AND MEMORIAL, AS WELL AS THE RIGHT TO MAINTAIN, AS MAY BE NECESSARY, A FIREBREAK 30 FEET WIDE ADJACENT TO AND OUTSIDE OF THE BOUNDARY OF THE CEMETERY. PARA ARTICLE III PARA 1. THE RIGHT OF THE GOVERNMENT OF THE UNITED STATES OF AMERICAN TO USE THE LAND PROVIDED UNDER THE TERMS OF THE AGREEMENT SHALL INCLUDE THE RIGHT TO CONSTRUCT WITHIN THE BOUNDARIES OF THE CEMETERY AND MEMORIAL SUCH ROADS AND PATHS AS MAY BE NECESSARY; TO CONSTRUCT OR ERECT THEREIN MONUMENTS, MEMORIALS, GRAVE MARKERS, SERVICE AND RECEPTION BUILDINGS, RESIDENCES FOR CARETAKERS AND SUCH OTHER STRUCTURES AS IT MAY DEEM ESSENTIAL TO THE PURPOSES OF THE CEMETERY AND MEMORIAL; TO BEAUTIFY THE GROUNDS FOR PERMANENT CARE AND MAINTENANCE OF THE GROUNDS, STRUCTURES AND INSTALLATIONS; AND TO MODIFY, MOVE, RAZE OR REMOVE ANY STRUCTURES OR PLANTINGS AT ANY TIME. PARA 2. IT IS UNDERSTOOD THAT THE TRAFFIC CIRCLE ROAD WHICH IS LOCATED ON LAND PROVIDED FOR THE PURPOSES OF THE AGREEMENT AND DESCRIBED IN ANNEX 1, WILL BE FREE FROM ANY CONTROL OR RESTRICTION ON THE PART LIMITED OFFICIAL USE

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OF THE AUTHORITIES OF THE UNITED STATES GOVERNMENT.

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ACTION L-02

INFO OCT-01 EA-06 ISO-00 ABMC-01 PM-03 DODE-00 /013 W

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R 160403Z MAY 75

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 3432

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PLEASE PASS TO AMERICAN BATTLE MONUMENTS COMMISSION

PARA 3. THE EXPENSE OF ALL CONSTRUCTION, INSTALLATIONS, MAINTENANCE AND OTHER WORKS OF THE CEMETERY AND MEMORIAL, INCLUDING THE AREA COMPRISING THE ROAD AND LANDSCAPING OF THE TRAFFIC CIRCLE WILL BE THE RESPONSIBILITY OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA. PARA ARTICLE IV PARA 1. THE GOVERNMENT OF THE UNITED STATES OF AMERICA ALONE IS EMPOWERED TO HAVE THE REMAINS OF UNITED STATES CITIZEN MILITARY AND CIVILIAN PERSONNEL BURIED IN, EXHUMED FROM OR TRANSPORTED TO OR FROM THE CEMETERY. SUCH REMAINS MAY INCLUDE SUCH PERSONNEL WHO MAY IN THE FUTURE BE FOUND ON WORLD WAR II BATTLEFIELDS IN THE REPUBLIC OF THE PHILIPPINES OR ELSEWHERE IN THE PACIFIC AREA. PARA 2. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES ALONE IS EMPOWERED, AFTER CONSULTATION WITH THE UNITED STATES GOVERNMENT OR ITS DESIGNATED AGENCY, TO HAVE THE REMAINS OF PHILIPPINE CITIZENS, MILITARY OR CIVILIAN, DESCRIBED IN ARTICLE I, BURIED IN, EXHUMED FROM OR TRANSFERRED TO OR FROM THE CEMETERY. PARA 3. AS REGARDS THE MOVEMENT TO, FROM OR ON TERRITORY OF THE REPUBLIC OF THE PHILIPPINES OF REMAINS DESCRIBED IN PARAGRAPH 1, THE GOVERNMENT OF THE UNITED STATES OF AMERICA SHALL TAKE ALL NECESSARY MEASURES TO ENSURE SUCH OPERATIONS DO NOT ENDANGER PUBLIC HEALTH. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AGREES TO RENDER NECESSARY ASSISTANCE IN ORDER THAT THE MOVEMENT OF REMAINS MAY BE ACCOMPLISHED WITHOUT DIFFICULTY OR UNDUE DELAY. PARA 4. THE EXPENSE OF ALL OPERATIONS

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INVOLVING THE REMAINS OF UNITED STATES CITIZENS WILL BE THE RESPONSIBILITY OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA. PARA ARTICLE V PARA 1. ALL SUPPLIES, MATERIALS AND EQUIPMENT INCLUDING MOTORIZED VEHICLES UTILIZED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA IN CARRYING OUT THE PROVISIONS OF THIS AGREEMENT, WHETHER PROCURED IN THE REPUBLIC OF THE PHILIPPINES OR IMPORTED, THE LAND ON WHICH

THE CEMETERY IS LOCATED, INCLUDING ALL IMPROVEMENTS THERETO THAT HAVE BEEN OR SHALL BE MADE, AND ALL BUILDINGS OR STRUCTURES CONSTRUCTED THEREON, WITH THE FURNITURE AND FIXTURES THEREIN, SHALL BE EXEMPT FROM REAL ESTATE TAXES, CUSTOMS DUTIES AND ALL OTHER FORMS OF TAXATION, DIRECT OR INDIRECT, BY THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES OR ITS SUBDIVISIONS. THE GOVERNMENT OF THE UNITED STATES OF AMERICA SHALL HAVE THE SAME EXEMPTION IN ALL UNDERTAKINGS AND SERVICES WHICH IT MAY ORDER OR CONTRACT FOR IN CARRYING OUT THE PURPOSES OF THIS AGREEMENT. EQARA 2. NATIONALS OF THE UNITED STATES OF AMERICA THAT ARE PRESENT IN THE REPUBLIC OF THE PHILIPPINES UNDER THE PROVISIONS OF THIS AGREEMENT SHALL BE PROVIDED THE EQUIVALENT PRIVILEGES AND IMMUNITIES AS THE TECHNICAL AND ADMINISTRATIVE STAFFS OF THE UNITED STATES DIPLOMATIC MISSION ACCREDITED TO THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES. PARA 3. THE GOVERNMENT OF THE UNITED STATES OF AMERICA UNDERTAKES TO FURNISH THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES WITH THE FULL NAMES, RANKS AND FUNCTIONS OF ALL AMERICAN CITIZENS AND THEIR DEPENDENTS IN THE REPUBLIC OF THE PHILIPPINES PURSUANT TO THE AGREEMENT. PARA ARTICLE VI PARA THE GOVERNMENT OF THE UNITED STATES OF AMERICA MAY ESTABLISH, ERECT AND MAINTAIN ADDITIONAL MONUMENTS OR MEMORIALS IN THE REPUBLIC OF THE PHILIPPINES IN HONOR OF HERETOFORE DESCRIBED PERSONNEL WHO ENGAGED IN THE PROSECUTION OF WORLD WAR II IN THE PHILIPPINES OR WHO DIED IN THAT WAR. LOCATIONS OF SUCH ADDITIONAL MONUMENTS OR MEMORIALS AND MANNER OF ACQUISITION OF SITES SHALL BE DETERMINED BY MUTUAL AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES. PARA ARTICLE VII PARA THE GOVERNMENT OF THE UNITED STATES OF AMERICA DESIGNATES THE AMERICAN BATTLE MONUMENTS COMMISSION, AS THE AGENCY OF THAT GOVERNMENT LIMITED OFFICIAL USE

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MENT, TO CARRY OUT THE PURPOSES OF THIS AGREEMENT. THE GOVERNMENT OF THE UNITED STATES OF AMERICA WILL INFORM THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES OF ANY AGENCY DESIGNATED AS SUCCESSOR IN INTEREST TO THE AMERICAN BATTLE MONUMENTS COMMISSION. PARA ARTICLE VIII PARA THE PRESENT AGREEMENT SHALL ENTER INTO FORCE ON THE DATE OF SIGNATURE OF APPROPRIATE REPRESENTATIVES OF THE GOVERNMENTS OF THE REPUBLIC OF THE PHILIPPINES AND UNITED STATES OF AMERICA. PARA THE PRESENT AGREEMENT SHALL BE VALID FOR AN INDEFINITE PERIOD AND SHALL SUPERSEDE ARTICLE X, US/RP MILITARY BASES AGREEMENT OF 1947 AND THE EXCHANGE OF NOTES OF MARCH 31, 1948/APRIL 1, 1948; JUNE 27, 1949/AUGUST 31, 1949; AND NOVEMBER 29, 1950/FEBRUARY 16, 1951. PARA IN WITNESS WHEREOF, THE RESPECTIVE REPRESENTATIVES, DULY AUTHORIZED FOR THE PURPOSE, HAVE SIGNED THIS AGREEMENT IN

DUPLICATE IN THE CITY OF MANILA THIS ----DAY OF----.
1975. (SIGNATURE BLOCKS) END QUOTE.

4. US AGENCIES IN PHILIPPINES REVIEWING FILES TO DETERMINE
IF ADEQUATE OVERALL MAP EXISTS REFLECTING CORRECT METES AND
BOUNDS FOR CEMETERY, TRAFFIC CIRCLE, FIREBREAK AND RESTRIC-
TIVE ZONE FOR USE AS ANNEX 1 TO AGREEMENT. BATTLE MONUMENTS
COMMISSION HAS PROVIDED CERTAIN MAPS ALONG WITH AUTHORITY
TO RETAIN SURVEY SERVICES TO INCORPORATE ALL REQUIREMENTS
INTO ONE MAP, IF NECESSARY.

5. ACTION REQUESTED: DEPT AND BATTLE MONUMENTS COMMISSION
REVIEW ABOVE DRAFT AND PROVIDE EMB WITH COMMENTS. AFTER
THIS ACCOMPLISHED, EMB WILL INFORMALLY DISCUSS AGREEMENT
WITH GOP AND, IF FAVORABLY RECEIVED, WILL THEN REQUEST
FORMAL 175 AUTHORITY.
SULLIVAN

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